



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2009 REGULAR SESSION

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HOUSE BILL NO. 322

AS ENACTED

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THURSDAY, MARCH 12, 2009

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TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Adles

AN ACT relating to school calendars and declaring an emergency.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

1        ➔Section 1. (1)        (a) Whereas a large majority of counties have been  
2 identified by emergency declaration as federal disaster areas because of Tropical  
3 Depression Ike that occurred in September 2008, and the severe weather storm that  
4 occurred in January and February, 2009, that included ice, snow, and flooding, resulting  
5 in power failures, impassable roads, and communications failures; and whereas, it has  
6 been necessary to close schools for numerous days during these events; the commissioner  
7 of education, notwithstanding any other statute or administrative regulation to the  
8 contrary or any other provision of 2008 Ky. Acts ch. 127, may approve a request from a  
9 local board of education to waive the makeup of a maximum of ten (10) instructional  
10 days that a district missed because of these disasters.

11        (b) Notwithstanding any provision of this section to the contrary, the  
12 commissioner of education may approve a plan submitted by a local board of education  
13 that extends the instructional day by not less than thirty (30) minutes.

14        (2) The commissioner shall inform local boards of education of the procedures to  
15 be used when making a request under this section. After consideration of a district's  
16 request, the commissioner may approve the request.

17        (3) (a) A local board of education requesting relief under the provisions of this  
18 section shall submit an amended school calendar for the 2008-2009 school year to the  
19 commissioner of education no later than May 1, 2009. The amended calendar shall detail  
20 the makeup days to be used and shall include a request for consideration of disaster days  
21 as approved by the local board.

22        (b) The commissioner shall not approve a request for any disaster days unless the  
23 amended 2008-2009 school calendar shows that all makeup days included in the district's  
24 approved calendar for the 2008-2009 school year shall be used.

25        (c) The commissioner shall approve or deny a request for any disaster days within

1 ten (10) calendar days of the original request.

2 (4) School district certified and classified personnel shall make up any days  
3 approved as disaster days by participating in instructional activities or professional  
4 development or by being assigned additional work responsibilities.

5 (5) (a) School district certified personnel employed full-time may use any  
6 unused emergency leave days, as identified in KRS 161.152, and any unused personal  
7 leave days, as identified in KRS 161.154, that may be provided by the district board of  
8 education to offset the make up days required in subsections (2) and (3) of this section if  
9 consistent with district policy.

10 (b) School district classified personnel employed full-time in the district may use  
11 any unused emergency leave days, as identified in KRS 161.152 that may be provided by  
12 the district board of education to offset the make up days required in subsections (2) and  
13 (3) of this section if consistent with district policy.

14 ➔Section 2. The commissioner of education may approve a local board of  
15 education's request to exceed the five (5) instructional hours that do not have to be made  
16 up under 702 KAR 7:125, Section 3. when school days were shortened to address an  
17 emergency situation. The commissioner shall determine how much additional time does  
18 not have to be made up based on the extenuating circumstances in the district on case-by-  
19 case basis.

20 ➔Section 3. Whereas school districts must adjust the school schedule for the  
21 remaining part of the school year, an emergency is declared to exist, and this Act takes  
22 effect upon its passage and approval by the Governor or upon its otherwise becoming a  
23 law.

24 ➔Section 4. KRS 157.360 is amended to read as follows:

25 (1) In determining the cost of the program to support education excellence in Kentucky,  
26 the statewide guaranteed base funding level, as defined in KRS 157.320, shall be  
27 computed by dividing the amount appropriated for this purpose by the prior year's

1 statewide average daily attendance.

2 (2) Each district shall receive an amount equal to the base funding level for each pupil  
3 in average daily attendance in the district in the previous year. Each district's base  
4 funding level shall be adjusted by the following factors:

5 (a) The number of at-risk students in the district. At-risk students shall be  
6 identified as those approved for the free lunch program under state and federal  
7 guidelines. The number of at-risk students shall be multiplied by a factor to be  
8 established by the General Assembly. Funds generated under this paragraph  
9 may be used to pay for:

- 10 1. Alternative programs for students who are at risk of dropping out of  
11 school before achieving a diploma; and
- 12 2. A hazardous duty pay supplement as determined by the local board of  
13 education to the teachers who work in alternative programs with  
14 students who are violent or assaultive;

15 (b) The number and types of exceptional children in the district as defined by  
16 KRS 157.200. Specific weights for each category of exceptionality shall be  
17 used in the calculation of the add-on factor for exceptional children; and

18 (c) Transportation costs. The per-pupil cost of transportation shall be calculated  
19 as provided by KRS 157.370. Districts which contract to furnish  
20 transportation to students attending nonpublic schools may adopt any payment  
21 formula which assures that no public school funds are used for the  
22 transportation of nonpublic students.

23 (3) The program to support education excellence in Kentucky shall be fully  
24 implemented by the 1994-95 school year.

25 (4) (a) Except for those schools which have implemented school-based decision  
26 making, the chief state school officer shall enforce maximum class sizes for  
27 every academic course requirement in all grades except in vocal and

1 instrumental music, and physical education classes. Except as provided in  
2 subsection (5) of this section, the maximum number of pupils enrolled in a  
3 class shall be as follows:

- 4 1. Twenty-four (24) in primary grades (kindergarten through third grade);
- 5 2. Twenty-eight (28) in grade four (4);
- 6 3. Twenty-nine (29) in grades five (5) and six (6);
- 7 4. Thirty-one (31) in grades seven (7) to twelve (12).

8 (b) Except for those schools which have implemented school-based decision  
9 making, class size loads for middle and secondary school classroom teachers  
10 shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

11 (c) The chief state school officer, upon approval of the Kentucky Board of  
12 Education, shall adopt administrative regulations for enforcing this provision.  
13 These administrative regulations shall include procedures for a superintendent  
14 to request an exemption from the Kentucky Board of Education when unusual  
15 circumstances warrant an increased class size for an individual class. A  
16 request for an exemption shall include specific reasons for the increased class  
17 size with a plan for reducing the class size prior to the beginning of the next  
18 school year. A district shall not receive in any one (1) year exemptions for  
19 more classes than enroll twenty percent (20%) of the pupils in the primary  
20 grades and grades four (4) through eight (8).

21 (d) In all schools the chief state school officer shall enforce the special education  
22 maximum class sizes set by administrative regulations adopted by the  
23 Kentucky Board of Education. A superintendent may request an exemption  
24 pursuant to paragraph (c) of this subsection. A local school council may  
25 request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall  
26 not be granted if the increased class size will impede any exceptional child  
27 from achieving his individual education program in the least restrictive

1 environment.

2 (5) In grades four (4) through six (6) with combined grades, the maximum class size  
3 shall be the average daily attendance upon which funding is appropriated for the  
4 lowest assigned grade in the class. There shall be no exceptions to the maximum  
5 class size for combined classes. In combined classes other than the primary grades,  
6 no ungraded students shall be placed in a combined class with graded students. In  
7 addition, there shall be no more than two (2) consecutive grade levels combined in  
8 any one (1) class in grades four (4) through six (6). However, this shall not apply to  
9 schools which have implemented school-based decision making.

10 (6) If a local school district, through its admission and release committee, determines  
11 that an appropriate program in the least restrictive environment for a particular child  
12 with a disability includes either part-time or full-time enrollment with a private  
13 school or agency within the state or a public or private agency in another state, the  
14 school district shall count as average daily attendance in a public school the time  
15 that the child is in attendance at the school or agency, contingent upon approval by  
16 the chief state school officer.

17 (7) Pupils attending a center for child learning and study established under an  
18 agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating  
19 average daily attendance, be considered as in attendance in the school district in  
20 which the child legally resides and which is party to the agreement. For purposes of  
21 subsection (1) of this section, teachers who are actually employees of the joint or  
22 cooperative action shall be considered as employees of each school district which is  
23 a party to the agreement.

24 (8) Program funding shall be increased when the average daily attendance in any  
25 district for the first two (2) months of the current school year is greater than the  
26 average daily attendance of the district for the first two (2) months of the previous  
27 school year. The program funds allotted the district shall be increased by the percent

1 of increase. The average daily attendance in kindergarten is the kindergarten full-  
 2 time equivalent pupils in average daily attendance.

3 (9) If the average daily attendance for the current school year in any district decreases  
 4 by ten percent (10%) or more than the average daily attendance for the previous  
 5 school year, the average daily attendance for purposes of calculating program  
 6 funding for the next school year shall be increased by an amount equal to two-thirds  
 7 ( $\frac{2}{3}$ ) of the decrease in average daily attendance. If the average daily attendance  
 8 remains the same or decreases in the succeeding school year, the average daily  
 9 attendance for purposes of calculating program funding for the following school  
 10 year shall be increased by an amount equal to one-third ( $\frac{1}{3}$ ) of the decrease for the  
 11 first year of the decline.

12 (10) If the percentage of attendance of any school district shall have been reduced more  
 13 than two percent (2%) during the previous school year, the program funding allotted  
 14 the district for the current school year shall be increased by the difference in the  
 15 percentage of attendance for the two (2) years immediately prior to the current  
 16 school year less two percent (2%).

17 (11) (a) Instructional salaries for vocational agriculture classes shall be for twelve (12)  
 18 months per year. Vocational agriculture teachers shall be responsible for the  
 19 following program of instruction during the time period beyond the regular  
 20 school term established by the local board of education: supervision and  
 21 instruction of students in agriculture experience programs; group and  
 22 individual instruction of farmers and agribusinessmen; supervision of student  
 23 members of agricultural organizations who are involved in leadership training  
 24 or other activity required by state or federal law; or any program of vocational  
 25 agriculture established by the Division of Career and Technical Education in  
 26 the Department of Education. During extended employment, no vocational  
 27 agriculture teacher shall receive salary on a day that the teacher is scheduled to

1 attend an institution of higher education class which could be credited toward  
2 meeting any certification requirement.

3 (b) Each teacher of agriculture employed shall submit an annual plan for summer  
4 program to the local school superintendent for approval. The summer plan  
5 shall include a list of tasks to be performed, purposes for each task, and time  
6 to be spent on each task. Approval by the local school superintendent shall be  
7 in compliance with the guidelines developed by the State Department of  
8 Education. The supervision and accountability of teachers of vocational  
9 agriculture's summer programs shall be the responsibility of the local school  
10 superintendent. The local school superintendent shall submit to the chief state  
11 school officer a completed report of summer tasks for each vocational  
12 agriculture teacher. Twenty percent (20%) of the approved vocational  
13 agriculture programs shall be audited annually by the State Department of  
14 Education to determine that the summer plan has been properly executed.

15 (12) (a) In allotting program funds for home and hospital instruction, statewide  
16 guaranteed base funding, excluding the capital outlay, shall be allotted for  
17 each child in average daily attendance in the prior school year who has been  
18 properly identified according to Kentucky Board of Education administrative  
19 regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall  
20 be reported monthly on forms provided by the Department of Education; and

21 (b) Pursuant to administrative regulations of the Kentucky Board of Education,  
22 local school districts shall be reimbursed for home and hospital instruction for  
23 pupils unable to attend regular school sessions because of short term health  
24 impairments. A reimbursement formula shall be established by administrative  
25 regulations to include such factors as a reasonable per hour, per child  
26 allotment for teacher instructional time, with a maximum number of funded  
27 hours per week, a reasonable allotment for teaching supplies and equipment,

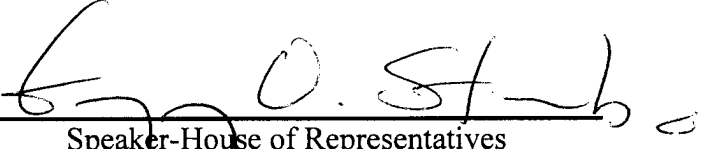


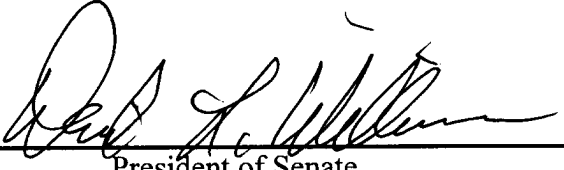
1           and a reasonable allotment for travel expenses to and from instructional  
2           assignments, but the formula shall not include an allotment for capital outlay.  
3           Attendance shall be calculated pursuant to KRS 157.270 and shall be reported  
4           annually on forms provided by the Department of Education.


5   (13) Except for those schools which have implemented school-based decision making  
6       and the school council has voted to waive this subsection, kindergarten aides shall  
7       be provided for each twenty-four (24) full-time equivalent kindergarten students  
8       enrolled.

9   (14) Effective July 1, 2001, there shall be no deduction applied against the base funding  
10      level for any pupil in average daily attendance who spends a portion of his or her  
11      school day in a program at a state-operated career and technical education or  
12      vocational facility.

13   (15) Notwithstanding any other statute or budget of the Commonwealth language to  
14      the contrary, time missed due to shortening days for emergencies may be made up  
15      by lengthening school days in the school calendar without any loss of funds  
16      under the program to support education excellence in Kentucky.

  
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Speaker-House of Representatives

  
\_\_\_\_\_  
President of Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date March 24, 2009